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### **Commission Communications on Sustainability and Voluntary Schemes**

**Report Categories:**

Bio-Fuels

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**Report Highlights:**

In June 2010, the Commission published two Communications to encourage industry, governments and NGO's to set up certification schemes. One Communication concerns the practical implementation of the Sustainability Scheme, and the other concerning Voluntary Schemes and default values. In the Communications the Commission explicitly rules out that forests can be converted into palm oil plantations.

Reactions from stakeholders in Brussels on the Communications have been generally positive.

## **General Information:**

### **Introduction**

In June 2010 the European Commission published the long awaited implementation guidelines on the EU biofuels sustainability scheme. These guidelines set out the sustainability criteria for biofuels adopted in 2008.

The EU Energy and Climate Change Package (CCP) was adopted by the European Council on April 6, 2009. The Renewable Energy Directive (RED), which is part of this package, entered into force on June 25, 2009, and must be transposed into national law by Member States (MS) by December 2010.

The CCP includes the “20/20/20” mandatory goals for 2020, one of which is a 20 percent share for renewable energy in EU total energy mix. Part of this 20 percent share is a 10 percent minimum target for renewable energy consumed in transport to be achieved by each MS.

For biofuels to be eligible for financial supports and count towards the target they must be certified and comply with the sustainability criteria that are provided in the RED. These sustainability criteria have to be met by all biofuels whether produced within the EU or imported from a third country.

This report complements the EU Annual Biofuels Report 2010 (GAIN NL0019) and should be read in parallel with that report.

### **Commission Communications**

In June 2010, the Commission published **two Communications** to encourage industry, governments and NGO's to set up certification schemes. One Communication concerns the practical implementation of the Sustainability Scheme, and the other concerning Voluntary Schemes and default values.

In the [Communication on the practical implementation of the sustainability schemes](#) and counting rules for biofuels the Commission sets out how MS and economic operators can implement the sustainability criteria and the RED's counting rules for biofuels in practice. In the [Communication on voluntary schemes and default values](#), the Commission sets out how it intends to deal with the assessment and the recognition of voluntary schemes and bilateral and multilateral agreements, as well as the adding and updating of default values.

These Communications specify that the sustainability criteria relate to:

- Green House Gas Savings
- Land with high biodiversity
- Land with high carbon stock
- Agro-environmental practices ( only intra-EU production)

MS must require economic operators to show that the biofuels comply with the sustainability criteria.

This can be achieved in three ways:

- By providing the data to the **national authority** in a MS. All MS have to lay down their requirements in a “national system”. The demands are set in the RED and a MS can not demand anything else, although MS are free to demand different ways of providing the data.
- By using a **voluntary scheme** that the Commission has recognized for the purpose. A voluntary scheme recognized by the Commission has to be accepted by all MS without any further requests.
- With a bilateral or multilateral agreement.

### **Green House Gas**

Specific requirements are laid out for GHG emissions-saving criteria. Biofuel must have a GHG emissions saving of at least 35 percent once the RED is implemented through national legislation. Starting in 2017, the GHG emission saving has to be 50 percent. For biofuels produced in installations for which production starts in 2017 onwards, the GHG savings must be at least 60 percent.

Environmental sustainability criteria covering bio-diverse and high-carbon-content lands are also specified. Other sustainability criteria are mentioned and reporting requirements are established, but specific requirements and thresholds are not yet identified. These cover other environmental criteria for soil, water and air quality, as well as social criteria, with a focus on food price impact, and adherence to International Labor Organization conventions.

The RED contains default values that economic operators can use to provide evidence of compliance with the GHG saving criteria. However, all biofuels that are to be counted towards the EU target have to be certified, -the default values represent a simplification tool for the economic operators.

The actual value for GHG savings for a feedstock can always be used regardless of whether there is a default value in the RED. Rules for this are found in Annex V of the RED. The average for a geographical area may be used to calculate emissions from cultivation. MS may draw up lists of such average values, or they can be incorporated in Voluntary Schemes.

The Commission intends to update and add default values, if appropriate, every two years starting in 2010, although updates make take place in the intermediate period if circumstances require. The Commission is reluctant to update the default values based on geographical areas, but more positive to updating them as a function of changes in technologies. Technologies improving the agricultural management to reduce GHG emissions may be; shifting to reduced or zero-tillage, improved crop rotations and/or cover crops, improved fertilizer or manure management and the use of soil improver such as compost.

### **Land Use**

Biofuels may not be made from raw material obtained from land with high biodiversity value such as primary forest and other wooded land, areas designated by law or by the relevant competent authority for nature protection purposes, highly biodiverse grassland or highly biodiverse non-grassland. The Commission is currently developing the criteria for biodiverse grasslands based on an open consultation conducted early in 2010. The criteria will apply on land classified as highly biodiverse on or after January 2008. Biofuels shall also not be made from raw materials produced on land with

high carbon stock such as wetlands, peatlands, or continuously forested areas.

In addition to the criteria for biodiverse grasslands, the Commission is currently developing reporting requirements under the RED. Producers will have to report to the Commission on social and environmental issues, to make it possible for the EC to measure the effects of its policies.

To comply with the land related criteria, raw materials may not be taken from land that in January 2008 was in one of the categories identified in the RED (article 17.4 and 17.5). The Commission is currently working on the definition of highly biodiverse grasslands and intends to establish these criteria and geographic ranges in 2010. In case of non-natural highly biodiverse grasslands the Communication provides that an exception is possible where evidence is provided that the harvesting is necessary to preserve the areas status.

In the Communication, the Commission explains clearly which types of land can not be used to produce biofuels. These are: natural forests, protected areas, wetlands and peatlands. It explicitly rules out that forests can be converted into palm oil plantations. (See section 4.2.1 'continuously forested areas' of the Communication)

#### **Assessment and recognition process**

To start an assessment, a request of recognition is sent to the Commission which will then assess the scheme regardless of its origin or whether another recognized scheme already covers the same feedstock or area.

The Commission assess the scheme against the sustainability criteria set out in the RED and the Communications and, if all demands are met, initiates a process leading to the adoption of a Commission decision. As a general rule schemes are recognized for maximum 5 years. A voluntary scheme that is recognized will have to have a verification scheme of Documentation management (evidence for claims they make kept for at least 5 years) and an adequate standard of independent auditing. As a general rule a voluntary scheme should ensure that economic operators are audited before allowing them to participate in the scheme.

#### **Reactions from EU NGOs and Professional Organizations on the Communications**

Most of the reactions in Brussels have been positive and mainly focused on the actual release of the Commission Communications which have been awaited since December 2009. In general, other press releases in Brussels seems to focus mainly on the fact that there are sustainability criteria for biofuels and also that the Commission has explicitly ruled out that forests can be converted to palm oil plantations.

The [European Bioethanol Association \(eBIO\)](#) welcomes the EC guidelines on biofuel sustainability and criteria asserting that they will provide the necessary clarity and pan-European rule- book to allow for business decisions regarding long-term biofuels investments anywhere in the EU27.

The [European Biodiesel Board \(EBB\)](#), says the documents provide essential clarifications on the interpretation of the sustainability schemes. EBB welcomes the Commission approach to the “mass balance” system chain of custody. EBB also says a fully harmonized implementation without delay in all EU MS will be the key factor in making the objective of the RED a reality for biofuel operators.

The **EU farmer unions and cooperatives COPA-COGECA** say EU biofuels offer the best guarantee in terms of sustainability. EU farmers and their cooperatives accept stringent environmental constraints, although, in return they urge the Commission to ensure that imports meet the EU's tough sustainability criteria.

The only negative reactions to the publications so far come from a group of **four environmental NGOs** (BirdLife International, ClientEarth, the European Environmental Bureau and Transport & Environment). The four environmental groups say they are concerned about the Commission's failure to address the critical issue of indirect land use change (ILUC). However, this criticism is a little misplaced since it was never the intention of the Commission to include ILUC in these Communications. This issue will be addressed later this year.